

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

**UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,**

Plaintiff,

v.

DANIEL C. USTIAN,

Defendant.

Case No. 1:16-cv-03885

Judge Sara L. Ellis

Magistrate Judge Sidney I. Schenkier

STIPULATION REGARDING SEC’S MOTION *IN LIMINE* NO. 1

Plaintiff the United States Securities and Exchange Commission (“SEC”) and Defendant Daniel C. Ustian (“Ustian”) (each, a “Party” and collectively, the “Parties”), by and through their attorneys, respectfully file this Stipulation regarding the SEC’s Motion *in Limine* No.1, “Motion *In Limine* For An Order Permitting The SEC To Use Leading Questions On Direct Examination Of Six Current Or Former Navistar Employees And To Preclude Ustian From Using Leading Questions In Cross-Examination Of These Witnesses”. (Docket No. 280). Ustian has filed a response in opposition to this Motion *in Limine*. (Docket No. 299). Now, to resolve this Motion *in Limine*, the Parties hereby stipulate and agree that: (1) the SEC shall be permitted to use leading questions on direct examination of the six current or former Navistar employees addressed in Motion *in Limine* No. 1,¹ and Ustian shall be precluded from using leading questions in cross-examination of these witnesses; and (2) Ustian shall be permitted to use leading questions on direct examination of certain current or former employees of the U.S.

¹ The six current or former Navistar, Inc. employees are (1) Thomas Kramer, (2) Patrick Charbonneau, (3) Titus Iwaskiewicz, (4) Troy Clarke, (5) Randy Diaz, and (6) Ramin Younessi.

Environmental Protection Agency identified as “will call” or “may call” witnesses at this time,² and the SEC shall be precluded from using leading questions in cross-examination of these witnesses.

The Parties are informing the Court of the Parties’ resolution of this Motion *In Limine* in order to conserve judicial resources and streamline the issues still necessary for resolution by the Court. This Stipulation shall not be construed to affect the Parties’ positions with respect to any Motions *in Limine* other than the SEC’s Motion *in Limine* No. 1.

Dated: December 16, 2019

Respectfully Submitted,

**SECURITIES AND EXCHANGE
COMMISSION**

DANIEL C. USTIAN

/s/ Eric M. Phillips

By One of Its Attorneys

/s/ Robin M. Hulshizer

By One of His Attorneys

Eric M. Phillips (ARDC No. 6237871)
Jonathan S. Polish (ARDC No. 6237890)
Amy Flaherty Hartman (ARDC No. 6274926)
Anne Graber Blazek (ARDC No. 6282987)
Timothy Stockwell
United States Securities and Exchange
Commission
175 West Jackson Boulevard, 9th Floor
Chicago, Illinois 60604
Telephone: (312) 353-7390

*Attorneys for the United States Securities and
Exchange Commission*

Sean M. Berkowitz (ARDC No. 6209701)
Robin M. Hulshizer (ARDC No. 6230994)
Cary R. Perlman (ARDC No. 6197698)
Eric R. Swibel (ARDC No. 6297743)
Latham & Watkins LLP
330 North Wabash Avenue, Ste. 2800
Chicago, IL 60611
Telephone: (312) 876-7700

Laurence H. Levine (ARDC No. 1638459)
189 East Lake Shore Drive, 16th Floor
Chicago, IL 60611
Telephone: (312) 927-0625

Attorneys for Daniel C. Ustian

² The current or former employees of U.S. EPA covered by this Stipulation are (1) Byron Bunker, (2) Christopher Grundler, (3) Greg Orehowsky, (4) Margo Oge, and (5) Justin Greuel.